

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Stephen D. Bruce et al. Art Unit : 1771
Serial No. : 09/491,721 Examiner : J. Pierce
Filed : January 27, 2000
Title : TEAR RESISTANT ELASTIC LAMINATE AND METHOD OF FORMING

MAIL STOP PETITION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT
BASED ON FAILURE TO RECEIVE OFFICE ACTION (MPEP 711.03(c)II)**

Pursuant to MPEP 711.03(c)II and in response to the Notice of Abandonment mailed July 31, 2003, Applicant hereby petitions to withdraw the holding of abandonment of the above-mentioned application. The application was abandoned for failure to respond to the Office Action mailed on December 9, 2002. An adequate showing of the cause of delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR §1.137(a) was unavoidable, is set forth below.

Jenkins & Gilchrist, P.C., never received the Office Action mailed on December 9, 2002. A search of the file jacket and docket records confirms that the Office communication was not received. Attached as Exhibit A is a copy of the Jenkins & Gilchrist, P.C. docket record where the non-received Office communication would have been entered had it been docketed. Exhibit A is thus "a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office Action", as the communication would have been docketed due March 9, 2003 if it had been received. Due to the fact that Jenkins & Gilchrist, P.C. manages thousands of U.S. and foreign patent files, a hand written log of due dates is not kept.

Counsel for Applicant promptly contacted Examiner Jeremy Pierce upon receipt of the Notice of Abandonment (which was forwarded by Applicant's former law firm) and received a copy of the Office Action from him on August 25th. During the nine (9) business days

CERTIFICATE OF MAILING BY EXPRESS MAIL

Express Mail Label No. EV315554185US

RECEIVED

Date of Deposit September 8, 2003

SEP 11 2003

OFFICE OF PETITIONS

Applicant : Stephen D. Bruce et al.
Serial No. : 09/491,721
Filed : January 27, 2000
Page : 2 of 2

Attorney's Docket No.: 15838-211001 / 233USPT

(excluding holidays and weekends) between August 25th and the filing date of this Petition, counsel for Applicant reported the substance of the Office Action to its client, Applicant reviewed the Office action and provided instructions to its counsel, Applicant's counsel reviewed the Office Action and drafted a suitable reply thereto, and there were multiple communications with Jenkins & Gilchrist, P.C. to establish the conditions upon which the necessary docket printout would be provided, as Applicant's counsel is no longer with Jenkins & Gilchrist, P.C. Based on the foregoing evidence, Applicant submits that the entire delay was unavoidable. Therefore, Applicant requests that the abandonment be withdrawn and that the enclosed Office Action Response be accepted as a response to the Office letter mailed December 9, 2002.

In the interest of expediting prosecution of this application, a response to the outstanding Office Action, including a Request for Continued Examination, is being filed herewith.

Enclosed is a check for \$110.00 to cover the fee for this petition as well as a check for \$750.00 to cover the RCE fee. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: September 8, 2003

P. Weston Musselman, Jr.
P. Weston Musselman, Jr.
Reg. No. 31,644

Fish & Richardson P.C.
5000 Bank One Center
1717 Main Street
Dallas, Texas 75201
Telephone: (214) 292-4030
Facsimile: (214) 747-2091

Monday, September 08, 2003

PATENT ACTIONS DUE REPORT

<i>ActionDueDate</i>	<i>DocketNumber</i>	<i>CountryName</i>	<i>ApplicationNumber</i>	<i>PatentNumber</i>	<i>GrantDate</i>	<i>AttorneyName</i>	<i>ClientName</i>
----------------------	---------------------	--------------------	--------------------------	---------------------	------------------	---------------------	-------------------

03/10/2003

Rejection response filed	34648-00407USPT	REG	X	NAT	09/061428	04/16/1998	Stanley R. Moore Ericsson Patent Unit Radio Network
--------------------------	-----------------	-----	---	-----	-----------	------------	---

Title MULTIPLE FREQUENCY REALLOCATIONS IN AN AUTOMATED FREQUENCY ALLOCATION ENVIRONMENT

Advisory Action	34645-00355USPT	REG	ORG	NAT	08/994586	12/19/1997	6580910	Stanley R. Moore Ericsson Patent Unit Research
-----------------	-----------------	-----	-----	-----	-----------	------------	---------	---

Title METHOD AND SYSTEM FOR IMPROVING HANDOFFS IN CELLULAR MOBILE RADIO SYSTEMS

Report Criteria (ActionDueDate) Between '3/9/2003' AND '3/10/2003' AND ((CountryName) in ('United States')) AND ((ActionDescription) in ('Resp 4th OA filed', 'Response 1st OA Filed', 'Response 2nd OA filed', 'Response to 3rd OA filed', 'Final rejection filed', 'Advisory Action', 'Rejection response filed'))

Order by ActionDueDate

3

Record Count

RECEIVED

SEP 11 2003

OFFICE OF PETITIONS

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 11/5/03 2 Serial/Patent # 09/491721

3 Please refund the following fee(s):

4 PAPER
NUMBER

5 DATE
FILED

6 AMOUNT

Filing

Amendment

Extension of Time

Notice of Appeal/Appeal

☒ Petition

Issue

Cert of Correction/Terminal Disc.

Maintenance

Assignment

☒ Other

13

9/8/03

\$ 110.00

14

9/8/03

\$ 750.00

7 TOTAL AMOUNT
OF REFUND

\$ 850.00

8 TO BE REFUNDED BY:

Treasury Check

☒ Credit Deposit A/c #:

06--1050

10 REASON:

Overpayment

Duplicate Payment

☒ No Fee Due (Explanation):

abandonment w/ drawn

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME:

TITLE:

SIGNATURE:

PHONE:

OFFICE:

***** THIS SPACE RESERVED FOR FINANCE USE ONLY: *****

APPROVED:

DATE:

11/6/03

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to: